

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MAHESH KUMAR PATHAK,
A78-659-983,
Petitioner,

v.

MICHAEL CHERTOFF, Secretary
Dept. of Homeland Security,

EDWARD C. FLORES, Chief of Correction,
Santa Clara County,
Department of Correction;

NANCY ALCANTAR, Field Office Director,
Office of Detention and Removal,
Immigration and Customs Enforcement;

ALBERTO R. GONZALES,
U.S. Attorney General;

Respondents

Civ. No. C 07 4691

PETITIONER'S MOTION
TO STRIKE

PETITIONER'S MOTION TO STRIKE PARAGRAPHS 36 IN PART
AND 38 AND 39 IN THEIR ENTIRETY

Petitioner, Mahesh Kumar Pathak, by and through undersigned counsel, respectfully moves to strike the following paragraphs in his Petition For Writ of Habeas Corpus filed on September 12, 2007.

The Petitioner moves to strike paragraphs 38 and 39 in their entirety, as they do not relate to the Petitioner's circumstances. The Petitioner no longer has a case pending before the Ninth Circuit Court of Appeals.

The Petitioner also respectfully moves to strike the second (of two) sentences in paragraph 36. The paragraph should read: "The Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action."

The Petitioner regrets that these sections were not omitted prior to yesterday's filing.

In view of the above, the Petitioner respectfully moves to strike the above portions of the Petition For Writ of Habeas Corpus filed on September 12, 2007.

Respectfully submitted this 14th day of September 2007.

/s/ Martin Resendez Guajardo

MARTIN RESENDEZ GUAJARDO

Counsel for the Petitioner

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th of September 2007 I caused to be delivered by U.S. Certified Mail, Return Receipt Requested, a copy of the foregoing PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241 to:

United States Attorney's Office for the Northern District of California
United States Attorney's Office
450 Golden Gate Avenue
11th Floor
San Francisco, CA 94102

/s/ Martin Resendez Guajardo

MARTIN RESENDEZ GUAJARDO
Attorney for Petitioner